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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,122	02/12/2002	Robert P. Felice	06181-911001	2335

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EXAMINER

CEGIELNIK, URSZULA M

ART UNIT	PAPER NUMBER
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3712

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DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/073,122

Applicant(s)

FELICE ET AL.

Examiner

Urszula M Cegielnik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8-16 is/are rejected.
- 7) ☒ Claim(s) 6 and 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

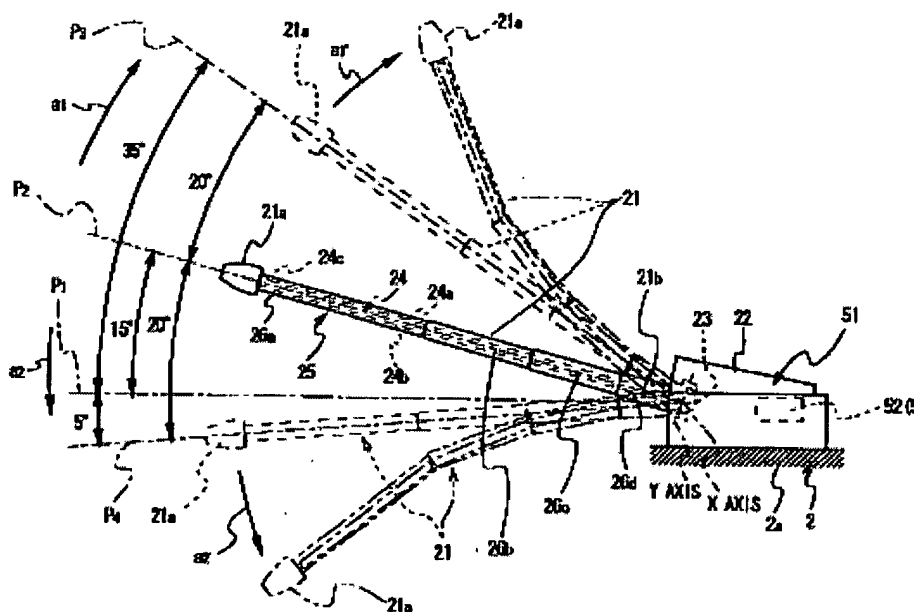
Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, and 8-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Yamagishi et al.



Yamagishi et al. disclose a moveable device (21) within the toy appendage (2) that is attached to a body (1) of the toy; an actuator (51) connected to the moveable device (21) to rotate the moveable device (21) about a drive axis (X axis, Y axis) that is

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fixed relative to the body (1) of the toy and to rotate at least a first portion (21b) of the moveable device (21) relative to at least a second portion (24a) of the moveable device (21) about a device axis (a1,a2,b1,b2) relative to moveable device (21) as recited in claim 1; the actuator (51) comprises a motor (52,53) and a drive shaft (52a,53a) connected to motor (52,53) and the moveable device (21), the drive shaft (52a,53a) defining the drive axis as claimed in claim 2; the actuator (51) rotates moveable device (21) by causing the drive shaft (52a,53a) to rotate the moveable device (21) as claimed in claim 3; the actuator (51) comprises a lever (63,64) coupled to the at least first portion (21b) of the moveable device (21) as claimed in claim 4; the actuator (51) rotates the at least first portion (21b) of the moveable device (21) relative to the second portion (24a) by causing the drive shaft (52a,53a) to rotate the lever (63,64) coupled to the moveable device (21) as claimed in claim 5; the motor (52,53) is configured to rotate the at least first portion (21b) relative to at least second portion (24a) in a first device direction about a device axis (a1,a2,b1,b2) if the drive shaft (52a,53a) is rotated in a first drive direction about the drive axis (X axis, Y axis) as claimed in claim 8; the motor (52,53) is configured to rotate the at least first portion relative (21b) to the at least second portion (24a) in a second device direction about the device axis (a1,a2,b1,b2) if the drive shaft (52a,53a) is rotated in a second drive direction about the drive axis (X axis, Y axis); the second device direction (b1,b2) is opposite the first device direction (a1,a2) and the second drive direction is opposite to the second device direction as recited in claim 9; the at least first portion (21b) and the at least second portion (24a) are included in the moveable device (21) as recited in claim 10; the drive axis is different from the device

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axis as claimed in claim 11; the actuator (51) is configured to rotate the at least first portion (21b) relative to the at least second portion (24a) in a first device direction about the device axis if the moveable device (21) is rotated in a first main direction about the drive axis; and rotate the at least first portion (21b) relative to the at least second portion (24a) in a second device direction (b1,b2) about the device axis (a1,a2,b1,b2) if the moveable device (21) is rotated in a second drive direction about the drive axis (x axis, Y axis) as claimed in claim 12; the method steps of rotating the appendage (2) about a drive axis (X axis, Y axis) that is fixed relative to the body (1) of the toy; and rotating at least a first portion (21b) of the appendage (2) relative to at least a second portion (24a) of the appendage (2) about a device axis that is fixed relative to the appendage (2) as recited in claim 13; rotating the appendage (2) comprises causing a drive shaft (52a,53a) connected to a motor (52,53) to rotate the appendage (2) as recited in claim 14; rotating the at least first portion (21b) of the appendage (2) relative to at least second portion (24a) of the appendage (2) comprises causing a drive shaft (52a,53a) connected to a motor (52,53) and defining the drive axis to rotate a lever (63,64) that is coupled to the at least first portion (21b) of the appendage (2) as recited in claim 15; rotating the appendage (2) about the drive axis (X axis, Y axis) occurs before rotating the at least first portion (21b) relative to the at least second portion (24a) as claimed in claim 16.

Allowable Subject Matter

Claims 6 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 703-306-5806. The examiner can normally be reached on Monday through Friday, from 6:45AM - 3:15PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 703-308-1745. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at 703-306-5648.

Urszula M. Cegielnik
Assistant Examiner
Art Unit 3712


DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
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